

Civil Service Rule 2-8

Approved July 22, 2004, effective October 1, 2004

The amendment added **§2-8.2(c)**, Prohibitions: Excluded Employees

2-8 Ethical Standards and Conduct

2-8.1 Ethical Conduct Required

Employment in the state classified service demands a high degree of loyalty and imposes high ethical standards on employees to ensure the integrity of state government and maintain effective services. All employees must meet these ethical standards and all appointing authorities are obligated to enforce these ethical standards.

2-8.2 Prohibitions

(a) All employees. A classified employee shall not do any of the following:

- (1)** Divulge or release, for financial gain for the employee or a member of the employee's immediate family, any confidential information that is not by law, rule, regulation, or court order available to members of the general public. However, this subsection does not prohibit an employee from disclosing to a public body a violation or suspected violation as authorized in rule 2-10 [Whistleblower Protection] unless otherwise prohibited by statute, court order, or professional ethics.
- (2)** Engage in or agree to engage in, for financial gain for the employee or a member of the employee's immediate family, any business transaction or private arrangement that accrues from or is based on the employee's official position or on confidential information gained by reason of the employee's position.
- (3)** Solicit, accept, or agree to accept anything of value (1) from any designated representative [as defined in rule 9-1] or (2) under any circumstances that could reasonably be expected to influence the manner in which the employee performs work or makes decisions.
- (4)** Make available any consideration, treatment, advantage, or favor beyond that which is generally granted or made available to others under similar circumstances.
- (5)** Represent or act as an agent for any private interests, whether for compensation or otherwise, in any transaction in which the state has a direct and substantial interest and which could reasonably be expected to result in a conflict between the employee's private interests and official state responsibilities.

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- (6) Exercise any decision-making authority of the state regarding any state regulation, enforcement, auditing, licensing, or purchasing with respect to any business or entity in which the employee or a member of the employee's immediate family has any financial interest.
 - (7) Engage in supplemental employment that conflicts with the satisfactory or impartial performance of the employee's state duties.
 - (8) Engage in supplemental employment without the express written consent of the employee's appointing authority.
 - (9) Engage in any supplemental employment during actual-duty time.
 - (10) Request or use sick leave to engage in supplemental employment.
 - (11) Use any state funds, property, or equipment in or for the benefit of any supplemental employment.
 - (12) Fail to timely, fully, and accurately report to the employee's appointing authority any of the following:
 - (A) Any interest of the employee or the employee's immediate family in any business or entity with which the employee has direct contact while performing official duties as a classified employee.
 - (B) Any supplemental employment or change in approved supplemental employment required by this rule, applicable regulations, or departmental work rules.
- (b) **Attorneys.** In addition to any other prohibition, an employee occupying a classified position that requires the employee to be a licensed attorney in the State of Michigan shall not do any of the following, whether for compensation or otherwise:
- (1) Represent any person or entity with an interest adverse to the State of Michigan or any of its agencies or instrumentalities (1) in any criminal, civil, regulatory, or administrative matter or (2) before any court or administrative agency.
 - (2) Represent any private interest before any state administrative agency.
 - (3) Represent another state employee in any matter, including a personnel matter, against the State of Michigan or any of its agencies or instrumentalities.
- (c) **Excluded employees.** In addition to any other prohibition, the following employees may not represent another employee in any matter or proceeding related to employment, including, but not limited to, investigations, disciplinary conferences, grievances, civil service technical matters, or civil service proceedings:
- (1) An appointing authority who is a classified employee.

- (2) An excluded employee occupying a position in human resources under the direction of an appointing authority.

2-8.3 Disclosure

(a) Personal and financial interests.

- (1) **Disclosure.** At least annually, an employee shall disclose to the employee's appointing authority all personal or financial interests of the employee or members of the employee's immediate family in any business or entity with which the employee has direct contact while performing official duties as a classified employee.
- (2) **Action by appointing authority.** If an appointing authority determines that the personal or financial interests of an employee or the employee's immediate family represent an unacceptable conflict of interest with the employee's state duties, the appointing authority may take any of the following actions to eliminate the conflict:
 - (A) Require appropriate actions by the employee or the employee's immediate family regarding the personal and financial interests.
 - (B) Change the employee's job, including, but not limited to, imposing a lateral job change, demoting the employee, changing reporting relationships, changing work locations, or reassigning specific tasks.
 - (C) Separate the employee from the classified service if the conflict cannot be eliminated.

(b) Supplemental employment.

- (1) **Disclosure and approval required.** An employee must report all supplemental employment to the employee's appointing authority and must receive approval from the appointing authority to engage in supplemental employment.
 - (A) **Employees.** Before engaging in supplemental employment, an employee must disclose the nature and extent of the supplemental employment to the employee's appointing authority. Thereafter, an employee must report all supplemental employment at least annually as required by this rule, applicable regulations, and the appointing authority.
 - (B) **Newly-hired employees.** A newly-hired employee who is already engaging in supplemental employment at the time of hire must disclose the nature and extent of the supplemental employment as required by an appointing authority.
 - (C) **Changes.** If there is a change in approved supplemental employment, the employee must disclose the nature and extent of the change to the employee's appointing authority within 14 calendar days.

- (2) **Action by appointing authority.** If an appointing authority determines that supplemental employment (1) interferes with the employee's attendance or efficiency or otherwise conflicts with the satisfactory performance of the employee's state duties or (2) represents an unacceptable conflict of interest with the employee's state duties, the appointing authority may take any of the following actions:
- (A) Withhold or withdraw approval to engage in supplemental employment.
 - (B) Require the employee to modify, limit, or terminate the supplemental employment.
 - (C) Change the employee's job, including, but not limited to, imposing a lateral job change, demoting the employee, changing reporting relationships, changing work locations, or reassigning specific tasks.
 - (D) Separate the employee from the classified service if the conflict cannot be eliminated.
- (3) **Service in the uniformed services; exception.** An employee is not required to obtain approval to engage in supplemental employment in the uniformed services. However, unless precluded by military necessity, an employee must give advance written or verbal notice to the appointing authority of any absence from state duties for service in the uniformed services.
- (4) **Applicants.** As part of the appraisal process, an appointing authority may require an applicant to disclose the nature and extent of all employment that the applicant intends to continue as supplemental employment after the applicant is hired into the classified service.

2-8.4 Compliance

As a condition of continued employment in the classified service, an employee must comply with the requirements of applicable rules, regulations, departmental work rules, and individual requirements imposed by the employee's appointing authority.

2-8.5 Discipline

An employee who engages in conduct prohibited by rule 2-8, an applicable regulation, a departmental work rule, or an individual requirement imposed by the employee's appointing authority may be disciplined, up to and including dismissal from the classified service.

2-8.6 Reporting Alleged Violations

An employee who becomes aware of any alleged violation of a standard of ethical conduct in this rule, an applicable regulation, a departmental work rule, or an individual requirement

imposed by an appointing authority must report the alleged violation to the employee's appointing authority.

2-8.7 Appointing Authority Guidance and Exemptions

- (a) **Departmental work rules and directives.** An appointing authority may issue departmental work rules or other written directives to define, implement, and enforce ethical standards. An appointing authority may, for example, do any of the following:
- (1) Establish ethical standards for employees that are more strict than the basic standards established in this rule and the regulations.
 - (2) Define specific prohibited acts and conflicts of interest.
 - (3) Identify specific employees or classes of employees required to file disclosure reports.
 - (4) Establish procedures, forms, and times for disclosure.
 - (5) Establish procedures for an employee to obtain a prior written determination from the employee's appointing authority as to whether specific future conduct is permitted or prohibited.
- (b) ***De minimis* exception.** In a departmental work rule or directive, an appointing authority may exempt from the prohibition in rule 2-8.2(a)(3) the receipt of anything of value that is so *de minimis* that the appointing authority has determined that its receipt by the employee could not reasonably be expected to influence how the employee performs work or makes decisions. However, any such *de minimis* exemption may not exceed the following limits:
- (1) Any single tangible or intangible item with a fair market value exceeding \$20.00.
 - (2) Any combination of tangible and intangible items during any 3-month period with an aggregate fair market value exceeding \$80.00.
 - (3) Any amount of money, including a loan of money.
- (c) **Conferences, training, and meetings.** Notwithstanding rule 2-8.2(a)(3), an appointing authority may authorize an employee to attend a conference, training session, or other meeting, the expenses of which are paid in whole or in part by a designated representative, if all of the following are met:
- (1) The employee's attendance is primarily for the benefit of the state.
 - (2) The expenses paid are expenses, which if paid by the employee, would be reimbursable items under the standardized travel regulations or other policies of the employee's appointing authority.

- (3) The employee's appointing authority determines that paid attendance by the employee would not reasonably be expected to improperly influence how the employee performs work or makes decisions.
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Civil Service Rule 6-5

Approved July 22, 2004, effective October 1, 2004

The amendments added the phrase "except as limited in rule 2-8.2(c)" to **§6-5.4(b)** and **(c)**

6-5 Rights of Employees

6-5.1 Participation by Employees

Employees may organize, form, assist, join, or refrain from joining labor organizations. Eligible employees may also engage in concerted activities for collective bargaining with the employer.

6-5.2 Resignation

No eligible employee is required to become or remain a member of a labor organization. An employee has the right to resign from a labor organization at any time. A resignation is effective no later than 28 calendar days after the employee gives written notice to the labor organization. A provision of a collective bargaining agreement or labor organization constitution or bylaws cannot limit or condition the right of an eligible employee to resign at any time.

6-5.3 Exclusively Represented Employees

Eligible employees have the right to exclusive representation as provided in these rules. When the state personnel director has certified an exclusive representative, employees in the unit have the following rights to be represented:

- (a) **Bargaining.** With respect to proper subjects of bargaining, exclusively represented employees may be represented only through their exclusive representative.
- (b) **Grievances under collective bargaining agreement.** With respect to grievances brought under the provisions of the collective bargaining agreement, an employee may be represented only by the exclusive representative. However, an employee or group of employees has the right at any time to present grievances to the employer and to have the grievances adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect. The employer shall give the exclusive representative an opportunity to be present at any such adjustment.
- (c) **Technical complaints and civil service grievances.** With respect to technical complaints and grievances brought under exclusive civil service procedures, an

exclusively represented employee may represent himself or herself or may choose to be represented by one of the following:

- (1) An employee or agent of the employee's exclusive representative.
- (2) An attorney.
- (3) Another exclusively represented classified employee who is member of the same bargaining unit.

6-5.4 Nonexclusively Represented Employees

A nonexclusively represented employee who is scheduled for a disciplinary conference or who appears as a party in a civil service proceeding may represent himself or herself or may choose to be represented by one of the following:

- (a) An employee or agent of a limited-recognition organization.
 - (b) An attorney, except as limited in rule 2-8.2(c) [Ethical Standards and Conduct: Prohibitions].
 - (c) Another nonexclusively-represented classified employee, except as limited in rule 2-8.2(c) [Ethical Standards and Conduct: Prohibitions].
 - (1) If the representative is an employee of the same principal department or autonomous entity (and agency of convenience, if any) as the charged employee, the appointing authority shall release the representative from regularly scheduled work without loss of pay or leave credits to attend the disciplinary conference or civil service proceeding.
 - (2) If the representative is an employee of a different principal department, autonomous entity, or agency of convenience than the charged employee, the representative may be absent from the workplace to attend the disciplinary conference or the civil service proceeding only if the representative's appointing authority has approved annual or personal leave.
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Amendments to Civil Service Rules 6-8

Approved July 22, 2004, effective October 1, 2004

The amendments approved are as follows:

1. Added the phrase “unless otherwise prohibited in this rule” to the first sentence of **§6-8.3**.
2. Added **§6-8.3(c)**, Limitations for Certain Excluded Employees.

6-8 Recognition Rights for Labor Organizations

6-8.1 Rights of Exclusive Representatives

An exclusive representative (1) has the duty of fair representation of all employees in the unit, (2) may engage in collective bargaining with the employer, and (3), when mutual agreement is reached, may submit to the civil service commission for approval a written collective bargaining agreement regarding proper subjects of bargaining.

6-8.2 Limitation on Representation

A labor organization certified as an exclusive representative in a unit is prohibited from representing (1) any employee in an eligible position prior to being certified as the exclusive representative in the employee’s unit and (2) any employee occupying an excluded position.

6-8.3 Limited-Recognition Organizations

Employees in excluded positions are not eligible for exclusive recognition but may join and be represented by limited-recognition organizations, unless otherwise prohibited in this rule. Employees in eligible positions in units that have not yet elected an exclusive representative may join and be represented by limited-recognition organizations. However, a limited-recognition organization shall not represent nor seek to represent an employee in an eligible position after an exclusive representative has been certified in the employee’s unit.

- (a) Limited-recognition status and payroll deduction of dues.** The state personnel director shall recognize as a limited-recognition organization an organization that registers with the director and provides (1) a copy of its constitution, bylaws, or other governing documents; (2) the names and addresses of its officers; (3) proof of registration as a nonprofit corporation in the state of Michigan; and (4) proof of membership of 50 or more excluded employees. Proof of membership must be in the form of signed membership application forms. Upon submission to the office of the state employer of 50 or more appropriate dues deduction cards, such an organization has the privilege of

payroll deduction of dues for members who are excluded. An employee cannot have the privilege of payroll deduction of dues to more than one organization.

(b) Limited recognition rights. An organization granted limited recognition under this rule also has the following rights:

- (1)** The right to express the interests of its members.
- (2)** The right to represent its members in civil service grievance hearings and technical appeals, when requested by the member.
- (3)** The right to be heard by the employer, the employment relations board, and the civil service commission.
- (4)** The right to union leave for union activities as may be provided in the regulations.

(c) Limitations for certain excluded employees.

(1) Limited membership permitted. The following employees may join a limited-recognition organization but are prohibited from serving in any official capacity, including, but not limited to, serving as an officer, agent, or representative of the limited recognition organization:

- (A)** An appointing authority who is a classified employee.
- (B)** An excluded employee occupying a position in human resources under the direction of an appointing authority.

(2) Membership prohibited. Notwithstanding subsection (c)(1), the following employees are prohibited from joining or being represented by a limited-recognition organization:

- (A)** An employee of the department of civil service.
 - (B)** An employee of the office of the state employer.
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Civil Service Rule 2-12

Approved July 22, 2004, effective Immediately

[See note at end of rule for amendments]

2-12 Leave of Absence without Pay

2-12.1 Authorization

(a) Permissive leave.

- (1) Nonmedical leave of absence.** An appointing authority may grant an employee a leave of absence without pay and without loss of employment status.
- (2) Medical leave of absence.** An appointing authority may grant a medical leave of absence without pay for up to 6 months to an eligible employee whose sick leave is exhausted. An employee is eligible for a medical leave of absence only if the employee has the equivalent of at least 6 months full-time employment at the time the leave is granted. If an employee on medical leave requests an extension before the leave expires, an appointing authority is authorized to extend the leave to a maximum of one year. Any extension of a medical leave beyond one year requires the written approval of the state personnel director.

(b) Mandatory leave. An appointing authority must grant a leave of absence without pay when specifically required by the civil service commission.

2-12.2 Expiration

A leave of absence without pay expires on the date established by the appointing authority, unless extended by the appointing authority. If an employee on a leave of absence without pay does not return to work on or before the end of the leave, the employee is separated.

2-12.3 Restoration to Position

When an authorized leave of absence without pay expires or the appointing authority authorizes a return to work before the end of the leave, the employee is returned to work as follows:

- (a)** Unless subsection (b) or (c) apply, the employee is returned to the position formerly occupied or an equivalent position.

- (b) If the appointing authority has demoted the employee since the beginning of the leave under rule 2-6 [Discipline] or rule 3-3 [Appointments and Job Changes], the employee is returned to a position at the classification level to which demoted and is compensated within the range of rates approved for that classification level.
- (c) If the employee's position was abolished during the leave, the employee is returned to the classified service in accordance with rule 2-5 [Employment Preference].
- (d) At the expiration of a medical leave of absence, if the employee is medically qualified to return to work, the employee is returned to a position as provided in subsection (a), (b), or (c), as appropriate. If the employee is not medically qualified to return to work, the employee is separated.

2-12.4 Annual Leave Balance

- (a) **Retention during leave.** An employee may choose to retain an annual leave balance during a leave of absence in accordance with the official compensation plan.
- (b) **Limitation and exception.** Payment for annual leave due an employee who does not return from a leave of absence is at the employee's last rate of pay

The following amendments were approved effective July 22, 2004.

[added text is underlined; deleted text is ~~struck through~~]

"2-12.1 Authorization

"(a) Permissive leave.

"(1) Nonmedical leave of absence. An appointing authority may grant an employee a leave of absence without pay and without loss of employment status.

"(2) 2-12.5 Medical leave of absence. An appointing authority may grant a medical leave of absence without pay for up to 6 months to an eligible employee whose sick leave is exhausted. An employee is eligible for a medical leave of absence only if the employee has the equivalent of at least 6 months full-time employment at the time the leave is granted. If an employee on medical leave requests an extension before the leave expires, an appointing authority is authorized to extend the leave to a maximum of one year. Any extension of a medical leave beyond one year requires the written approval of the state personnel director.

"(b) Mandatory leave. ~~Additionally, the~~ An appointing authority must grant a leave of absence without pay when specifically required by the civil service commission.

"2-12.2 Expiration

"A leave of absence without pay expires on the date established by the appointing authority, unless extended by the appointing authority. If an employee on a leave of absence without pay does not return to work on or before the end of the leave, the employee is separated.

“2-12.23 Restoration to Position

“When an authorized leave of absence without pay expires or the appointing authority authorizes a return to work before the end of the leave, the employee ~~must be~~ is returned to work as follows:

“(a) Unless subsection (b) or (c) apply, the employee is returned to the ~~restored to the~~ position formerly occupied or an equivalent position.

“(b) If the appointing authority has demoted the employee since the beginning of the leave under rule 2-6 [Discipline] or rule 3-3 [Appointments and Job Changes], the employee is returned to a position at the classification level to which demoted and is compensated within the range of rates approved for that classification level. ~~The appointing authority may approve restoration before the expiration of the leave.~~

“2-12.3 Abolishment of Position

“(c) If the ~~position of an~~ employee’s position ~~is was~~ abolished during a ~~the~~ leave of absence without pay, the employee is returned to the classified service in accordance with rule 2-5 [Employment Preference].

“(d) At the expiration of a medical leave of absence, if the employee is medically qualified to return to work, the employee is returned to a position as provided in subsection (a), (b), or (c), as appropriate. If the employee is not medically qualified to return to work, the employee is separated.

“2-12.4 Annual Leave Balance

“(a) Retention during leave. An employee may choose to retain an annual leave balance during a leave of absence in accordance with the official compensation plan.

“(b) Limitation and exception. Payment for annual leave due an employee who does not return from a leave of absence is at the employee’s last rate of pay.”

Amendments to Rule 2-14

Approved July 22, 2004, effective Immediately

[Added text is underlined. Deleted text is ~~struck-through~~]

Rule 2-14 Veterans' Preference and Military Leave

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2-14.3 Regular Military Leave of Absence

- (a) **General provisions; without pay.** A classified employee in an indefinite appointment who enters military service in the armed forces of the United States under the provisions of the selective service law, by call to duty, or by voluntary entrance in lieu of being called to duty, is entitled to a military leave of absence for the period of time required to fulfill the military obligation. The regular military leave of absence is without pay or benefits, except as provided in subsection (b). If the employee voluntarily remains in military service beyond the time required by selective service law, the leave and right to restoration to the position formerly occupied or an equivalent position automatically terminates. Continuous state service credit is allowed for the period of the military leave of absence.
- (b) **Special provisions between September 11, 2001, and September 30, ~~2004~~2005.** If an employee is granted an emergency military leave of absence after September 11, 2001, and thereafter is placed on a regular military leave of absence, the employee is entitled to the regular military leave of absence with pay for any active duty period between September 11, 2001, and September 30, ~~2004~~2005. The leave is with pay if the military pay is less than the employee's regular state salary, for each day of absence from scheduled state employment. The pay is equivalent to the difference between the employee's military pay and regular state salary. During any period of military leave with pay, the employer shall also continue to pay the employer's portion of the cost of continuing group medical, dental, and vision insurance.

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2-14.14 Military Leave for Limited-term Employees

An appointing authority shall grant a military leave of absence to a classified employee in a limited-term appointment who is a member of a reserve component of the armed forces and is ordered to perform emergency duty, by compulsory call of the governor or the president, as provided below:

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- (c) **Special provisions between September 11, 2001, and September 30, ~~2004~~2005.** If an employee is granted a limited-term military leave of absence after September 11, 2001, the employee is entitled to the limited-term military leave of absence with pay for any active duty period between September 11, 2001, and September 30, ~~2004~~2005. The leave is with pay if the military pay is less than the employee's regular state salary, for each day of absence from scheduled state employment. The pay is equivalent to the difference between the employee's military pay and regular state salary. During any period of military leave with pay, the employer shall also continue to pay the employer's portion of the cost of continuing group medical, dental, and vision insurance. Salary and benefit continuation payments authorized in this subsection expire on the earlier of (1) the date the limited-term military leave of absence expires or (2) September 30, ~~2004~~2005.
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